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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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8 SAN FRANCISCO BAY AREA RAPID  
9 TRANSIT DISTRICT,

No. C 04-04632 SI

10 Plaintiff,

11 v.

12 WILLIAM D. SPENCER, et al.,

13 Defendants.  
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**SPECIAL VERDICT**

United States District Court for the Northern District of California

We, the jury in the above entitled action, find unanimously as follows for our special verdict:

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**AS TO DEFENDANT WILLIAM D. SPENCER:**

Question No. 1: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant William D. Spencer violated Subsection (1) of the California False Claims Act?            Yes \_\_\_\_\_            No \_\_\_\_\_

Question No. 2: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant William D. Spencer violated Subsection (2) of the California False Claims Act?            Yes \_\_\_\_\_            No \_\_\_\_\_

Question No. 3: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant William D. Spencer violated Subsection (3) of the California False Claims Act?            Yes \_\_\_\_\_            No \_\_\_\_\_

If your answers to Questions 1, 2 and 3 were all "No," please go to Question No. 5 . Otherwise, please answer the next question:

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Question No. 4: For how many of the 97 progress payment applications did BART prove that William D. Spencer is liable under one or more of these Subsections? \_\_\_\_\_ (number)

Please answer the next question.

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1 **AS TO DEFENDANT WILLIAM McGAHAN:**

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3 Question No. 5: Did BART prove, by a preponderance of the evidence, all of the elements required to  
4 demonstrate that defendant William McGahan violated Subsection (1) of the California False Claims  
5 Act? Yes \_\_\_\_\_ No \_\_\_\_\_

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7 Question No. 6: Did BART prove, by a preponderance of the evidence, all of the elements required to  
8 demonstrate that defendant William McGahan violated Subsection (2) of the California False Claims  
9 Act? Yes \_\_\_\_\_ No \_\_\_\_\_

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11 Question No. 7: Did BART prove, by a preponderance of the evidence, all of the elements required to  
12 demonstrate that defendant William McGahan violated Subsection (3) of the California False Claims  
13 Act? Yes \_\_\_\_\_ No \_\_\_\_\_

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16 If your answers to Questions 5, 6, and 7 were all “No,” please go to Question No. 9. Otherwise, please  
17 answer the next question:

18 ~~United States District Court for the District of California~~

19 Question No. 8: For how many of the 97 progress payment applications did BART prove that William  
20 McGahan is liable under one or more of these Subsections? \_\_\_\_\_ (number)

21  
22 Please answer the next question.

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**AS TO DEFENDANT BRUCE R. BONAR:**

Question No. 9: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant Bruce R. Bonar violated Subsection (1) of the California False Claims Act?

Yes \_\_\_\_\_ No \_\_\_\_\_

Question No. 10: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant Bruce R. Bonar violated Subsection (2) of the California False Claims Act?

Yes \_\_\_\_\_ No \_\_\_\_\_

Question No. 11: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant Bruce R. Bonar violated Subsection (3) of the California False Claims Act?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answers to Questions 9, 10, and 11 were all “No,” please go to Question No. 13 . Otherwise, please answer the next question:

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Question No. 12: For how many of the 97 progress payment applications did BART prove that Bruce R. Bonar is liable under one or more of these Subsections? \_\_\_\_\_ (number)

Please answer the next question.

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1 **AS TO DEFENDANT F. W. SPENCER & SON, INC.:**

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3 Question No. 13: Did BART prove, by a preponderance of the evidence, all of the elements required to  
4 demonstrate that defendant F. W. Spencer & Son, Inc. violated Subsection (1) of the California False  
5 Claims Act? Yes \_\_\_\_\_ No \_\_\_\_\_

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7 Question No. 14: Did BART prove, by a preponderance of the evidence, all of the elements required to  
8 demonstrate that defendant F. W. Spencer & Son, Inc violated Subsection (2) of the California False  
9 Claims Act? Yes \_\_\_\_\_ No \_\_\_\_\_

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12 If your answers to Questions 13 and 14 were both "No," please go to Question No. 16 . Otherwise,  
13 please answer the next question:

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15 Question No. 15: For how many of the 97 progress payment applications did BART prove that F. W.  
16 Spencer & Son, Inc is liable under one or more of these Subsections? \_\_\_\_\_ (number)

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18 Please answer the next question.

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**AS TO DEFENDANT BRISBANE MECHANICAL CO.:**

Question No. 16: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant Brisbane Mechanical Co. violated Subsection (1) of the California False Claims Act?            Yes \_\_\_\_\_            No \_\_\_\_\_

Question No. 17: Did BART prove, by a preponderance of the evidence, all of the elements required to demonstrate that defendant Brisbane Mechanical Co. violated Subsection (2) of the California False Claims Act?            Yes \_\_\_\_\_            No \_\_\_\_\_

If your answers to Questions 16 and 17 were both “No,” please go to Question No. 19 . Otherwise, please answer the next question:

Question No. 18: For how many of the 97 progress payment applications did BART prove that Brisbane Mechanical Co. is liable under one or more of these Subsections? \_\_\_\_\_ (number)

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If you did not answer any of the preceding questions “Yes,” then do not answer any further questions; instead, please go to the end of this form, sign and date it where indicated, and inform the Court that you have reached a verdict. Otherwise, please answer the next question.

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1 **OTHER DAMAGES:**

2 Question No. 19: Did BART prove, by a preponderance of the evidence, that the violation(s) of the  
3 California False Claims Act by any defendant caused BART damages as defined in the instructions?

4 Yes \_\_\_\_\_ No \_\_\_\_\_

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6 Question No. 20: If your answer to Question 19 was "Yes," what is the amount of damages BART  
7 proved? \_\_\_\_\_

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9 Please answer the following questions:

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11 **STATUTE OF LIMITATIONS:**

12 Question No. 21 Did defendants prove, by a preponderance of the evidence, that BART knew or should  
13 have known of the fraudulent or false nature of defendants' acts, before November 1, 2001?

14 Yes \_\_\_\_\_ No \_\_\_\_\_

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16 Question No. 22: Did plaintiff prove by a preponderance of the evidence that defendants fraudulently  
17 concealed the fraudulent or false nature of their acts, so that BART, even acting reasonably, did not  
18 know of the fraudulent or false nature of defendants' acts before November 1, 2001?

19 Yes \_\_\_\_\_ No \_\_\_\_\_

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21 **LACHES:**

22 Question No. 23 Did defendants prove, by a preponderance of the evidence, that BART delayed  
23 bringing this action for an unreasonable length of time and that defendants were prejudiced by the delay  
24 in bringing this action?

25 Yes \_\_\_\_\_ No \_\_\_\_\_

26  
27 Dated:

28 \_\_\_\_\_  
FOREPERSON